

Chapter 5.10

OPEN BURNING, SMOKE AND GASES

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5.10.010 Regulations. It shall be unlawful for any person, persons, firm, partnership or corporation, commercial or residential to open burn any refuse, combustible or noncombustible, within the corporate limits of the City of Jasper. No open burning, except those specified in this Chapter, shall be permitted by any means. It shall be unlawful for any person, persons, firm, partnership or corporation, commercial or residential, to negligently or carelessly cause a fire by any means, or by a lighted match, cigar, cigarette or other burning article, which damages property not his own. (Ord. 1997-31, S2, 1997) (Ord. 1997-17, S2b, 1997) (Ord. 1993-42, S5.10.10, 1993) (Ord. 1990-31, 1990)

5.10.020 Limited Burning for Special Purposes. Open burning which does not create a nuisance or a fire hazard and which is attended by a responsible person at all times until completely extinguished is allowed for the following purposes:

- (1) Ceremonial fires and bonfires: A bonfire in connection with a religious ceremony, school pep rallies, scouting activities and similar purposes or other purposes approved by the Board of Public Works;
- (2) Camp fires and fires for cookouts;

- (3) Open burning of vegetative matter grown on the premises in the course of agriculture operations, when it can be shown that such open burning is necessary and that no fire hazard will occur, provided the person intending to disposal of vegetative matter by open burning obtains approval from the fire department which has jurisdiction.
- (4) Any burning of vegetative matter as provided in 5.10.20 (c) herein shall be allowed only between the hours of 10:00 a.m. and 7:00 p.m. and only at times when the actual or forecast wind speed as given by the local National Weather Service is greater than five miles per hour and less than twenty miles per hour. Such fires shall consist of vegetative matter only.
- (5) Stoves for heating and fireplaces: First shall be permitted in wood stoves for heating and fireplaces if such fire does not create an air pollution problem or a fire hazard. (Ord. 1993-42, S5.10.20, 1993)

5.10.030 Emergency Burning.

- (1) The Mayor may allow emergency burning of petroleum products, high explosives or other dangerous materials where such fires are properly controlled by a responsible person and are deemed necessary in the public interest.
- (2) The Mayor may allow open burning of refuse consisting of material resulting from a disaster if the Mayor has declared such a disaster in the area. (Ord. 1993-42, S5.10.30, 1993)

5.10.040 Liability.

- (1) Any person who allows the accumulation or existence of combustible material which constitutes or contributes to a fire shall not be excused from responsibility therefore on the basis that such fire was accidental or an act of God.
- (2) The person in possession of property where open burning in violation of this Chapter and its regulations occurs, shall be prima facie liable for the violation. (Ord. 1993-42, S5,10.40, 1993)

5.10.050 Smoke and Gases. It shall be unlawful to cause or permit the emission or escape of any foul or noxious smoke, fumes, gases or ash, dust, soot or cinders into the open air in such quantities as to cause injury or annoyance to the public or damage to any property or to have a natural tendency to do so within the City of Jasper. This is hereby declared to be a nuisance. (Ord. 1997-17, S2c, 1997) (Ord. 1993-42, S5.10.050, 1993)

5.10.060 Penalty for Violations. Any person, firm, partnership or corporation who does not comply with any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than fifty dollars nor more

than two hundred dollars for the first offense. Second or subsequent violations shall be fined not less than one hundred dollars and nor more than one thousand dollars. Each day any violation of this Ordinance continues shall be a separate offense. The City shall also have the right to recover the costs of administering this Ordinance, including but not limited to filing fees and attorney fees. The Civil City of Jasper, Indiana, by its duly elected officials shall be entitled to petition any Court having jurisdiction to enjoin any person, firm, partnership, or corporation from violating this Ordinance. (Ord. 1997-17, S2d, 1997) (Ord. 1993-42, S5.10.60, 1993)

5.10.070 Enforcement. The Jasper Police Department shall enforce this Ordinance. (Ord. 1997-17, S2e, 1997)

5.10.080 Administrative Liability. No officer, agent, or employee of the City of Jasper shall render himself personally liable for any damage that may occur to persons or property as a result of any act required or permitted in the discharge of his duties under this Chapter. Any suit brought against any officer, agent or employee of the City of Jasper as a result of any act required or permitted in the discharge of his duties under this Chapter shall be defended by the City attorney until the final determination of the proceedings therein. (Ord. 1997-17, S2f, 1997)

5.10.090 Separability. If any section, sub-section, sentence, clause, phrase or portion of this Ordinance shall for any reason be held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereunder. (Ord. 1997-17, S2g, 1997)

5.10.100 Prior Ordinances. All ordinances and/or parts of ordinances in conflict herewith are hereby repealed. (Ord. 1997-17, S2h, 1997)

5.10.110 Effective Date. This Ordinance shall be in full force and effect from and after notice, passage by the Common Council, approval by the Mayor, all in the manner as provided by law. Adopted this 18th day of June, 1997. (Ord. 1997-17, S2i, 1997)